

## **Remarks**

The present response is to the Office Action mailed in the above-referenced case on 03/21/2008. Claims 1, 4-10, 12-18 and 20-25 are presented for examination.

### **Election/Restriction**

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1 and 4-9 are drawn to a software suite executing from a computer server on a Internet network classified in class 705 subclass 40
  - II. Claims 10 and 12-17 are drawn to an interactive method for transferring funds, classified in class 705 subclass 37
  - III. Claims 18, 20-25 are drawn to an interactive system for transferring funds having a first and second node classified in class 715 subclass 744

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP 5 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the subcombination can be performed outside the software suite. The subcombination has separate utility such as certain steps can be performed manually by the user or performed by separate parts of the system instead of all at one time on a single server.
3. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP 8 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the

subcombination as claimed because it does not require a second server node. The subcombination has separate utility such as it can be used to store data on one server.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP 5 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

4. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

### **Applicant's Response**

The present case was filed 5/10/2001 which included three independent claims; claim 1 contained limitations for a software suite, claim 10 for a an interactive method for transferring funds and claim 18 for an interactive system for transferring funds. The Examiner now, in the Office Letter dated 03/21/08 asserts an election/restriction requirement for said claims 1, 10 and 18 as separate inventions I, II and III, while said claims maintain limitations for a software suite, an interactive method claim and an interactive system claim, as originally filed.

Applicant points out that the present response is the eighth response prepared and filed by applicant. Applicant, during the course of the examination of the present invention also filed an Appeal Brief which was examined by The Board of Patent Appeals and Interferences. The Examiner states; "there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply." Applicant has put forth an abundance of effort, time and fees to diligently respond to the Examiner and amend claims which now, at this late date in the examination process, must be canceled. This has put a serious, unreasonable and

unnecessary burden on applicant. Applicant does not understand, and respectfully requests a reasonable explanation as to why, at this point in the examination process, an Election/Restriction of the filed claims are being asserted by this Examiner; as this Examiner has been searching and examining this case the first round.

Applicant also questions the Examiner's pairing of inventions I and II while not mentioning invention III. Applicant points out that independent method claim 10 actually mirrors the system claim 18, not the software claim 1. In an effort to support the progress of the present examination applicant herein elects invention II, without traverse, including claims 10, 12-17. In the event that the Examiner realizes that system claim 18 and method claim 10 are, in fact the same invention as one is the system and one is the method, applicant reserves the right to reinstate claims 18 and 20-25 for examination.

### **Summary**

As all of the claims, as amended and argued above, have been clearly shown to be of one invention, as required by the Examiner, applicant respectfully requests that the claims be reconsidered, and that the case be passed quickly to issue. If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully submitted,  
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